

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Building Code Appeals Board
Docket No. 10-863

Kevin Hastings,

Appellant

v.

City of Lowell,

Appellee

BOARD'S RULING ON APPEAL

Procedural History

This matter came before the State Building Code Appeals Board ("Board") on the Appellant's petition filed on March 17, 2010 pursuant to 780 CMR 122.1. In accordance with 780 CMR 122.3, the Appellant requested that the Board grant the Appellant variances from 7th Edition 780 CMR 3409.9 and 503.1 and 7th Edition 780 CMR 1019.1.4 and 1009.3 for the property at 171 Jackson Street, Lowell, MA.

In accordance with GL c. 30A, §§10 & 11; GL c. 143, §100; 801 CMR 1.02 *et. seq.*; and 780 CMR 122.3.4, the Board convened a public hearing on April 1, 2010 where all interested parties were provided with an opportunity to testify and present evidence to the Board. Ray Costello, building inspector for the City of Lowell, appeared on behalf of the Appellee. The Appellant was not present at the hearing. For the following reasons, the Board hereby **DISMISSES** the Appellant's request.

Discussion

The Appellant is requesting variances from various sections of 780 CMR. Pursuant to M.G.L. c. 143, § 100, the Board has the authority to decide appeals by those "aggrieved by an interpretation, order, requirement, direction or failure to act by any state or local agency or any person or state or local agency charged with the administration or enforcement of the state building code." Accordingly, the Board has the authority to decide this appeal.

Even though the representative for the Appellee, Ray Costello, testified that the Appellee would defer to the judgment of the Board on the Appellant's request, the Board was reluctant to take action without the Appellant present.

Conclusion

A motion was made by Jacob Nunnemacher and seconded by Sandy MacLeod to **DISMISS** the hearing due to the fact that the Appellant was not present at the hearing. The Board voted unanimously in favor of the motion.

The Appellant's request for variances from 7th Edition 780 CMR 3409.9 & 503.1; 7th Edition 780 CMR 1019.1.4 and 7th Edition 780 CMR 1009.3 is hereby **DISMISSED** as described in the discussion above.

SO ORDERED.

By The Board:



Sandy MacLeod

Douglas Semple
Chair

Jacob Nunnemacher

DATED: August 16, 2010

In accordance with M.G.L. c. 30A, §14, any person aggrieved by this decision may appeal to the Superior Court within 30 days of receipt of notice of this decision.